

# What it Takes to Come to

# (and Stay at)

# the Table



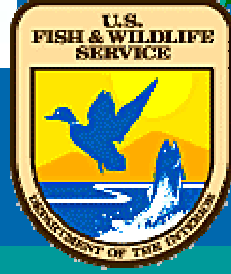
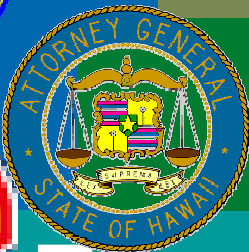
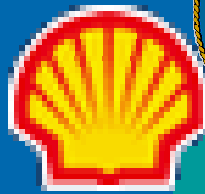
Cooperative Damage Assessment Workshop  
San Diego, CA June 9-10, 2004

Dr. Roger C. Helm  
US Fish and Wildlife Service

# Issues That I'll Touch On

- Cooperation Defined
- Engage or Not Engage in Cooperative Assessment
  - Spill versus CERCLA Cases
- Why Trustees and Industry Stay Engaged
- Increasing Probability of Engagement
- IF Enough Time
  - Decreasing Probability of Not Engaging
  - Insurers and Foreign Owned Companies

# Webster Says....

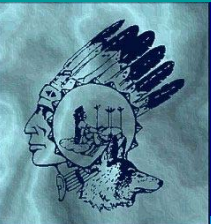


Chevron



ExxonMobil

The association of a of number people in an enterprise the benefits of which are shared by all the members.



California State Parks



Webster: The association of a of number people in an enterprise the benefits of which are shared by all the members

➤ **‘a number of’**

- The fewer the better

➤ **‘people’**

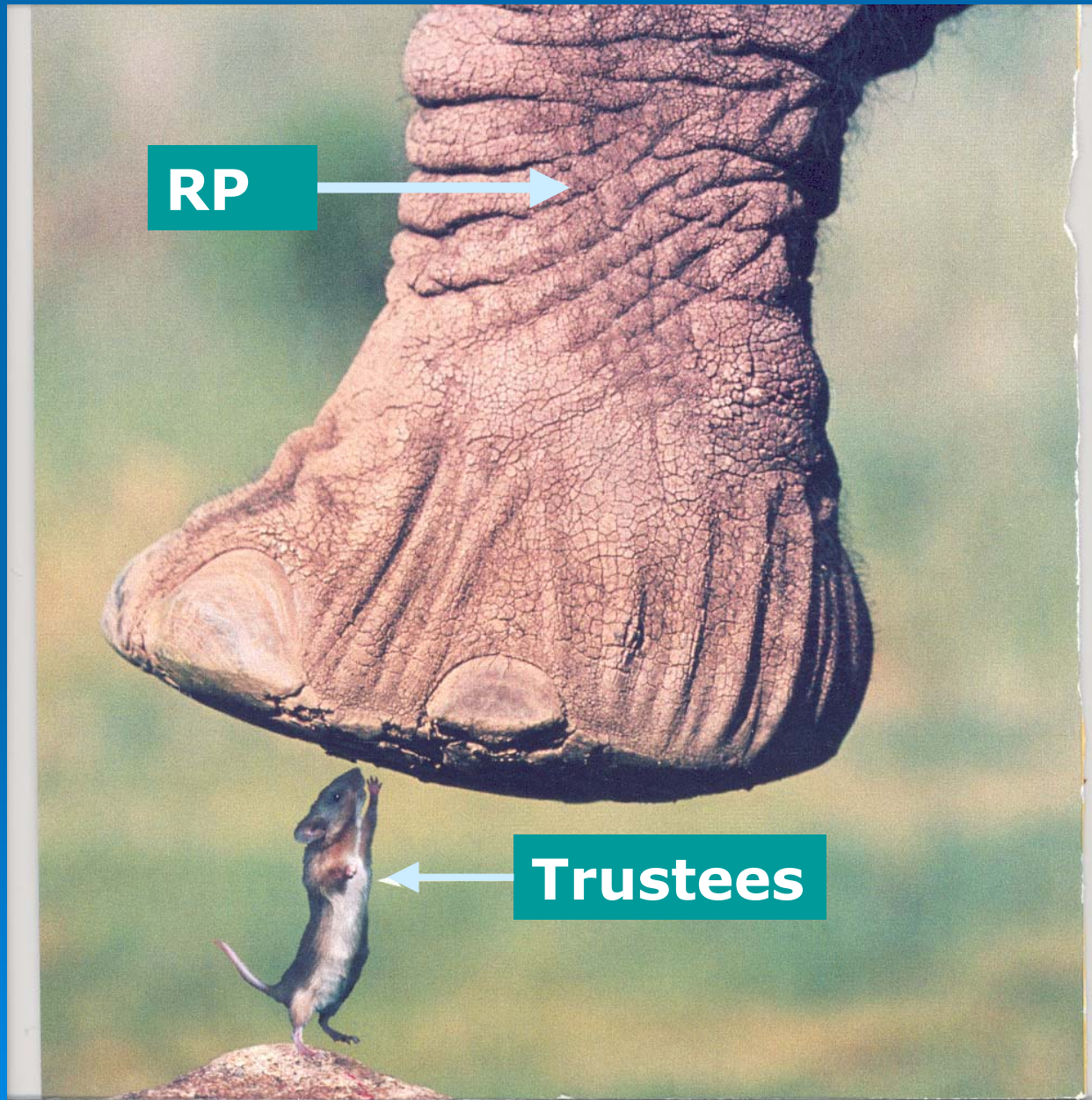
- Adults only
- Childlike fine, Childish NO!

➤ **‘benefits ... shared by all’**

- Win–Win vs. Me–Mine

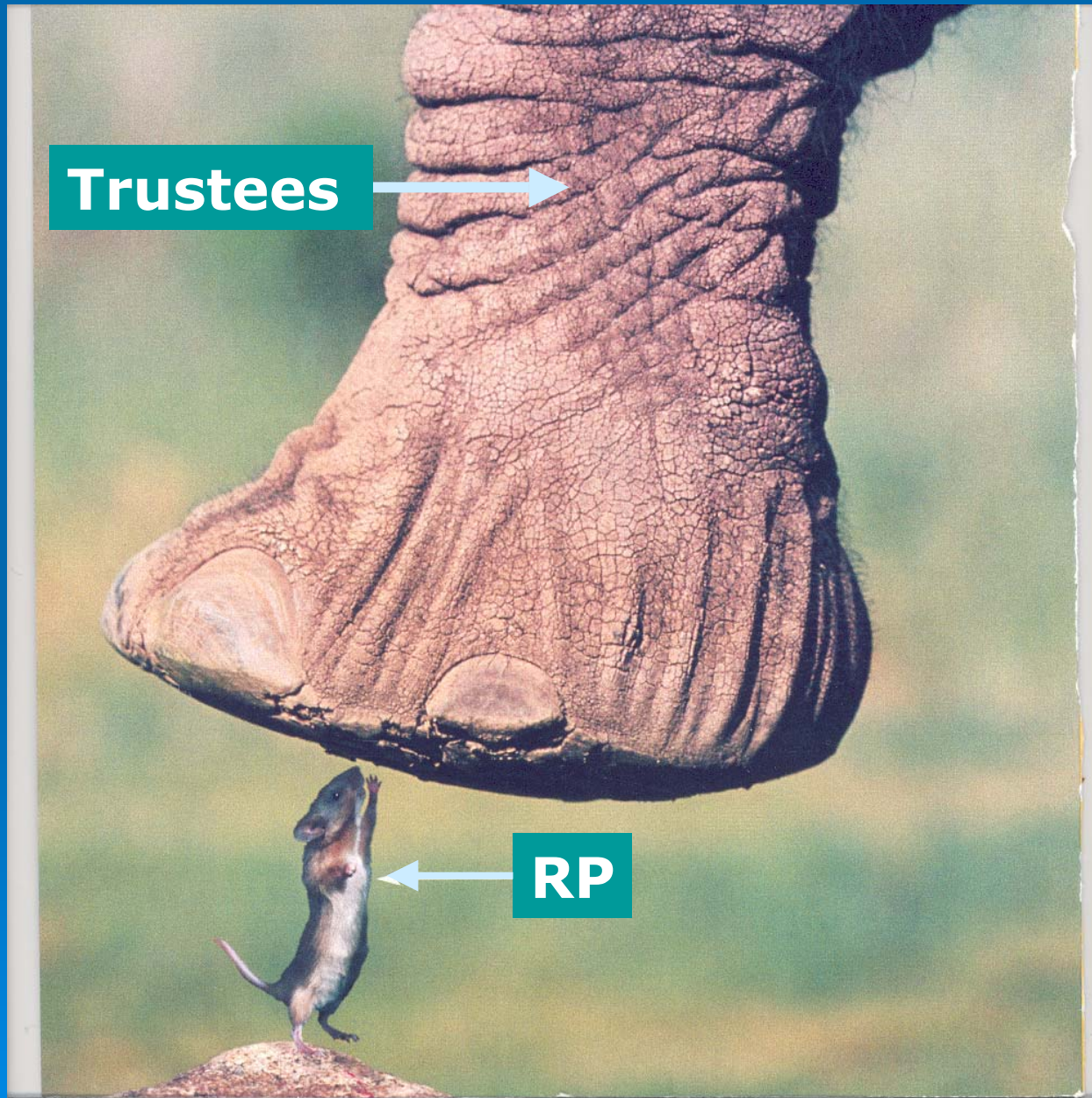


# To engage or....





# not to engage



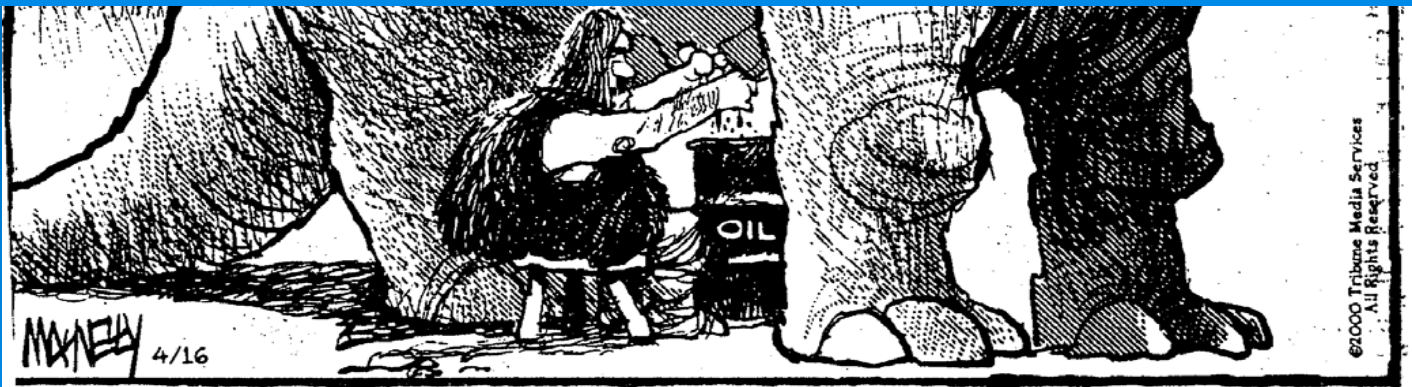
# Engage or Not Engage

- Trust and Willingness among and between Co-trustees and RPs
  - **History:** JAT, Previous Cases, Consultants
- Nature of Case
  - Spill vs. CERCLA

# Spill Cases – Usually....



- Injury- visible, smell & touch = Real
- Single Responsible Party
- Restricted in Time
- Funding Readily Available
- Costs Limited and Bounded





# CERCLA Cases - Usually....

- Injury- Invisible (ppm/ppb) = Real??
- Multiple Responsible Parties
- Extended Over Long Time
- Funding Availability Spotty
- Cost High & Unbounded



# Stay Engaged - Trustees

- Lawsuit, Lawsuit, Lawsuit,.....
- Regulations; Restoration sooner;  
Financial
- But REALLY...
  - Restoration sooner
  - Financial
  - Regulations
  - Administration?



# Stay Engaged - Industry

- Lawsuit, Lawsuit, Lawsuit,.....
- Reduce costs; Restoration sooner;  
Shared responsibility
- But REALLY ??
  - Reduce Costs
  - Influence
    - Study Design: limited and focused
    - Data: analysis and dissemination
    - Thought processes of final decision makers





# Increase Probability of Engaging

- Build Relationships: Internal & External
- Basic Communication Skills



# Increase Probability of Engaging

## ➤ Build Relationships: Internal & External

- Trust building essential
  - Roto Rooter lines of communication
  - Willingness to subvert OWN ego
- ‘JAT’, Cross-Training, “CERCLA Drill”
- Don’t have to always agree, but don’t let that poison the whole process

# Increase Probability of Engaging

## ➤ Basic Communication Skills

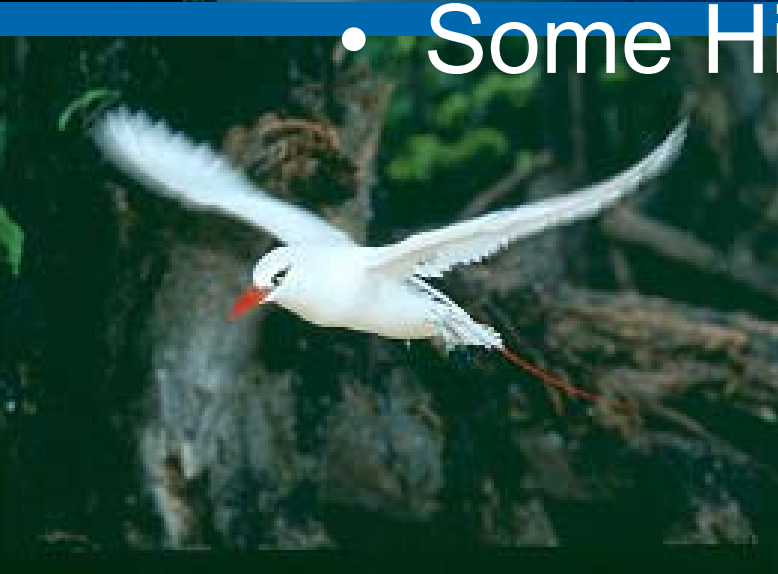
- **Must have: Respect**
- **Need to Avoid:**
  - destructive labeling
  - mind reading
  - magnification
  - imperatives





A Few Adults with:

- Win-Win Focus
- Good Communication Skills
- Respect and Avoiding Poisons
- Some History (Trust)



# Decreasing Probability of NOT Engaging

- Reducing Incentives to NOT Cooperate
  - Shareholder awareness
  - Threat of Superfund listing
  - Fixed liability on financial statements
  - Public awareness

# Insurers & Foreign Companies

- Company Manager @ Table
  - Not just “Company Representative”
- Performance Criteria
  - Consultants and Outside Counsel

